



City of Roanoke Invitation to Bid

Date: «BidDate»

Bid Number: 04-09-06 BULK CONTAINER SERVICES		Bid Opening Date: March 24, 2005 Bid Opening Time: 2:00 p.m.		
To: «Vendor_Name» «Vendor_ContactName» «Vendor_Address» «Vendor_City» «Vendor_State» «Vendor_Zip»				
Legal Name of Bidder:				
Mailing Address:				
Terms:				
Delivery:				
Telephone:		E-mail:		
Acknowledge each addendum received:	# Date	# Date	# Date	# Date
Printed name of authorized person submitting bid:				
Signature:		Date:		
Issued by:	City of Roanoke Purchasing Division Noel C. Taylor Municipal Building 215 Church Ave SW, Room 353 Roanoke, VA 24011		Toni Thomas, Procurement Technician Phone: 540-853-2871 Fax: 540-853-1513 toni.thomas@roanokeva.gov	

THIS PUBLIC BODY DOES NOT DISCRIMINATE AGAINST FAITH BASED ORGANIZATIONS

No bid may be withdrawn within a period of sixty (60) days after bid opening except for clerical errors, part (i) Section 2.2-4330 (A), Virginia Code, 1950, as amended.

The City reserves the right to cancel or reject any or all bids and to waive any informalities in any bid.

This invitation for Bid consists of these parts:

1. Specifications
2. Instructions for bidders
3. Bid Form (Attachment A)
4. Location Information (Attachment B)
5. Sample Contract (Attachment C)

**SPECIFICATIONS FOR
BULK CONTAINER SERVICES
ITB # 04-09-06**

SECTION 1. PURPOSE.

The purpose of this Invitation to Bid (ITB) is for the procurement of Bulk Container Collection Services for approximately twenty four (24) yard containers and possibly one (1) 20 yard sealed self-contained compactor, as set forth on Attachment B. The 20 yard compactor may or may not be serviced in 2005; however the City requires a bid for this service. Additional containers and locations may be added, at the City's option, during the term of the contract.

SECTION 2. SCOPE OF WORK.

The following are the services and/or items the Successful Bidder will be required to provide the City and/or to meet:

- A. The Successful Bidder shall dump approximately 24, more or less, frontloading bulk containers, and possibly, one sealed self-contained compactor weekly.
- B. Any dumping or rental of containers in addition to that which is described in Attachment B of this ITB, must be provided when requested and will be paid for by the department requesting the service.
- C. The Successful Bidder shall provide containers at the locations where containers are not currently owned by the City. The City currently owns two dumpsters at the Public Works location and one at Fire Station #2, Noble Ave. location.
- D. All dumping and rental services shall be handled by the Contractor providing the service during the period of the contract.
- E. The City reserves the right to add or delete bulk containers to be serviced at any time.
- F. All collections shall be delivered to and emptied at the Solid Waste Transfer Station, Department of Public Works, 1802 Courtland Avenue, NE, Roanoke, VA 24017 and operated by the Roanoke Valley Resource Authority.
- G. Successful Bidder shall not assign or subcontract its duties under the contract.

SECTION 3. TERMS OF CONTRACT.

- A. The term of this Contract will be for one (1) year, from _____, through _____, at which time it will terminate, unless sooner terminated pursuant to the terms of the Contract or by law. At the City's option, the Contract may be extended for up to four (4) additional one (1) year periods or any combination thereof. The City may exercise its option by giving written notice of such to the Contractor at least sixty (60) days before the expiration of the initial one (1) year term or any subsequent extension term.
- B. All terms and conditions shall remain in force for the term of the contract and for any renewal period unless modified by mutual agreement of both parties. Prices shall not be increased during the first year of the contract. Prices for any renewal periods will be subject to the mutual agreement of both parties, but in no event shall such prices exceed five percent (5%) of the prices for the prior year of the contract.

- C. General and/or technical questions regarding the Scope of Services and/or project requirements under this Invitation to Bid may be directed to Vincent Greenan, Senior Buyer, at (540) 853-2871, or faxed to (540) 853-1513.

SECTION 4. PAYMENT FOR SERVICES.

Payment to the Successful Bidder shall be made within thirty (30) days after receipt of invoice and approval of such invoice by Skip Decker, Solid Waste Division Manager. The individual department/division will be responsible for payment of invoices.

SECTION 5. GENERAL INSTRUCTIONS TO BIDDERS.

- A. 1. Sealed Bids, to be considered, must be received by the City of Roanoke in the Purchasing Division, 215 Church Avenue, S.W., Noel C. Taylor Municipal Building, Room 353, Roanoke, Virginia 24011, before 2:00 p.m., local time, on March 24, 2005 at which time all bids received will be publicly opened and read. Bids received at 2:00 p.m. or later will not be accepted or considered. The time of receipt shall be determined by the time clock stamp in the Purchasing Office, or if it is not working, such time shall be determined by the Purchasing official who is to open the bids.

The mailed envelope shall be clearly marked on the front of that envelope, the notation and completed information as follow: **"Sealed Bid Number: _____"**.

Opening Date: _____ and Time: _____.

(Bidder to insert correct date) (Bidder to insert correct time)

FAXED OR E-MAILED BIDS ARE NOT ACCEPTABLE.

- B. **If you download this ITB from the City website, and intend to submit a bid, you must notify Purchasing that you should be added to the list of entities having received a copy of the ITB and want to receive any addenda issued. The City is not responsible for any ITB obtained from any source other than the City, and may not accept bids from those who fail to notify the City of their intent to submit a bid. Contact Purchasing by phone at 540.853.2871, by fax at 540.853.1513 or by email at purchasing@roanokeva.gov.**
- C. Payment terms and delivery date(s) must be shown on the submitted bid, if applicable.
- D. All bids are to be submitted in accordance with all terms, conditions, rules, regulations, requirements and specifications identified in and by this ITB.
- E. Bids are to be on the Form as provided by or as otherwise specified in this ITB. If a Bid Form is provided, no changes are to be made to the Bid Form. Any changes to Bid amounts must be initialed.
- F. All bids shall be signed by a person on behalf of the responding Bidder who is appropriately authorized to do so. The printed name of that authorized person must be shown as well. Any bid submitted must be submitted in the complete legal name of the Bidder responding. No bid will be considered from any Bidder not properly licensed as may be required by law.

- G. Bids that have been appropriately opened cannot be changed, adjusted, corrected or modified in any way other than complete withdrawal. The City's procedures for withdrawal of bids (whether construction or other than construction) is that set forth in Code of Virginia §2.2-4330 which allows withdrawal of a bid due to an error such as an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid. Withdrawal must be requested within two days of the bid opening by delivering to the City original work papers, documents, and materials used in preparation of the Bid.
- H. All bids, appropriately received, will be evaluated by considering the requirements set forth in the ITB, the quality, workmanship, economy of operation, suitability for intended purpose, delivery, payment terms and price of product or service being requested in this bid.
- I. Bids are to be submitted on the brand, make and kind of product or service requested or its approved equal, to be solely determined by the City, unless otherwise specified. Should a bid be for a product or service as an equal, the name, make, model and type of that which is being bid must be clearly stated. The bid must also be accompanied by descriptive literature of the product or service bid to allow for evaluation. Failure to provide this information may result in the bid being considered non-responsive and may not be considered.
- J. If an award is made for the item(s) or services requested, a notice of award will be made which will be posted to a file in the City's Purchasing Division, Room 353, telephone no. 540-853-2871, and notification of such award will be made available for Public view in the lobby of the Noel C. Taylor Municipal Building, 215 Church Ave., S.W., Roanoke, VA. 24011. Purchase Orders, when awarded to the Successful Bidder(s), will be issued and sent to the address shown on their bid response. Upon completion of the purchase order, payment will be made only to the Successful Bidder at the address as shown on the purchase order. If the remittance address is other than the address on the bid, it must be clearly noted and explained in your bid. Purchase Order(s) will be paid only when the items and/or services have been supplied to and approved by the City.
- K. All items, identified in this Invitation to Bid, are to be quoted and provided **F.O.B. DESTINATION-INSIDE DELIVERY.**
- L. The City reserves the right to cancel or reject any or all bids, to waive any informalities in any bid and to purchase any whole or part of the items or services listed in the ITB.
- M. It is the policy of the City of Roanoke to maximize minority and women-owned business enterprises participating in all aspects of City contracting opportunities.
- N. **The attention of each Bidder is directed to VA Code 54.1-1100 et seq. which requires certain licenses for contractors, tradesmen and others. Each Bidder is**

required to determine which license, if any, it is required to have under such sections. Each Bidder shall so state on the Bid Form or in its response, if no Bid Form is provided, whether it has a VA license under such sections and, if so, the type of license and/or license number. Failure to include this information may result in the bid being nonresponsive.

O. Bid Submittals shall include:

- 1. Invitation to Bid Coversheet**
- 2. Page 9 and 10, The Bid Form (Unit Cost shall include all labor, material, overhead and profit.)**

Failure to do so may result in the bid being determined as nonresponsive.

Questions or concerns may be addressed by contacting the Purchasing Division at (540) 853-2871. Reply To:

**City of Roanoke Purchasing Division
Noel C. Taylor Municipal Building
215 Church Avenue SW, Room 353
Roanoke, Virginia 24011**

SECTION 6. EVALUATION FOR LOWEST RESPONSIVE AND RESPONSIBLE BIDDER.

To determine the lowest responsive and responsible bidder with respect to this Bid, the following factors, among such others as will protect and preserve the interest of the City may be considered:

- A. Total extended bid price as set forth on the Bid Form;
- B. The specified terms and discounts of the Bid;
- C. The ability, capacity and skill of the Bidder to perform the contract or provide the service required;
- D. Whether the bidder can perform the Contract or perform the service promptly, or within the time specified, without delay or interference;
- E. The character, integrity, reputation, judgment, experience and efficiency of the Bidder;
- F. The quality of performance of previous contracts or services;
- G. The previous and existing compliance by the Bidder with laws and ordinances relating to the Contract, purchase or service;
- H. The equipment and facilities available to the Bidder to perform the Contract or provide the service, and/or items.
- I. The sufficiency of the financial resources and ability of the bidder to perform the Contract or provide the service, and/or items.
- J. The quality, availability and adaptability of the supplies, materials, equipment or services to the particular use required;

- K. The ability of the Bidder to provide future maintenance, parts and service for the use of the subject of the purchase or Contract;
- L. The conditions, if any, of the bid;
- M. Bids shall be evaluated based on the requirements set forth in this Invitation to Bid, and other criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, suitability for a particular purpose and life cycle cost. The City, in its sole discretion, may elect to waive an informality in any Bid.

SECTION 7. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED.

The following applies to the Successful Bidder:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

SECTION 8. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR.

All public bodies shall include in every contract over \$10,000 the following provisions:

The following applies to the Successful Bidder:

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, a drug-free workplace

means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

SECTION 9. FAITH-BASED ORGANIZATIONS.

Pursuant to §2.2-4343.1 of the Code of Virginia (1950), as amended, the City of Roanoke does not discriminate against faith-based organizations.

SECTION 10. INDEMNIFICATION.

The Contractor agrees to be responsible for and pay, indemnify, and hold harmless the City, their officers, agents, employees, and volunteers against any and all claims, damages, injuries, loss, costs, and expenses, including but not limited to reasonable attorneys' fees of any type or nature resulting from any claim or legal action of any nature whatsoever, whether or not reduced to a judgment or settlement, or for any liability of any nature whatsoever, that may arise against the City, their officers, agents, employees, or volunteers in connection with any of the rights and privileges granted by City to the Contractor in this Agreement, including, without limitation, any patent, trademark, franchise, copyright, libel or defamation claim or suit and any claim or suit based upon the Contractor's agents, servants, employees or invitees acts or omissions, whether intentional, negligent or otherwise.

SECTION 11. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE.

Successful Bidder, and any of its subcontractors, shall, at its sole expense, obtain and maintain during the life of the resulting Contract the insurance policies and/or bonds required. Any required insurance policies and/or bonds shall be effective prior to the beginning of any work or other performance by successful Bidder, or any of its subcontractors, under any resultant Contract. The policies and coverages required are those as may be referred to in the sample contract and/or the terms and conditions attached to this ITB, but shall include workers' compensation coverage regardless of the number of employees.

SECTION 12. NEGOTIATIONS WITH LOWEST RESPONSIVE AND RESPONSIBLE BIDDER.

If the bid by the lowest responsive and responsible bidder exceeds available funds, the City reserves the right to negotiate with the apparent low bidder pursuant to §2.2-4318 Code of Virginia. The conditions and procedures under which such negotiation may be undertaken are that the appropriate City officials shall determine that the lowest responsive and responsible bid exceeds available funds and notify such bidder in writing of its desire to negotiate. Thereafter, negotiations with the apparent low bidder may be held to obtain a contract within available funds involving discussions of reduction of quantity, quality, or other cost saving mechanisms. Any such negotiated contract shall be subject to final approval of the City, in the sole discretion of the City.

SECTION 13. BID AWARD.

If an award of a contract is made, it will be made to the lowest responsive and responsible Bidder(s) and notice of the award or the announcement of the decision to award will be made by posting a notice of such award or announcement in the foyer area of the 2nd Floor of the Noel C. Taylor Municipal Building at 215 Church Avenue, S.W., Roanoke, Virginia 24011. The City reserves the right to award to multiple Bidders.

SECTION 14. INFORMATION ON CONTRACT TO BE AWARDED.

The Sample Contract marked as Attachment C to ITB No. 04-09-06 contains terms and conditions that the City plans to include in any contract that may be awarded, but such terms and conditions may be changed, added to, deleted, or modified as may be agreed to between the City and the Successful Bidder. However, if a Bidder has any objections to any of the terms or conditions set forth in the Sample Contract or any changes or additions thereto that the Bidder wants to discuss before submitting a bid, the Bidder should set forth such objections, changes, or additions in written correspondence to the Purchasing Division at least five (5) days before the bid opening date for this ITB. Otherwise, submission of a bid by a Bidder will obligate such Bidder, if it is the Successful Bidder, to enter into a contract containing the same or substantially similar terms and conditions as contained in such Sample Contract.

SECTION 15. PROTESTS.

Any Bidder who wishes to protest or object to any award made or other decisions Pursuant to this ITB may do so only in accordance with the provisions of Sections 2.2-4357, 4358, 4359, 4360, 4363, and 4364 of the Code of Virginia, and only if such is provided for in such Code section.

(Remainder of page intentionally left blank)

ATTACHMENT A
BID FORM

Bulk Container Services
ITB # 04-09-06

In compliance with the ITB and subject to all regulations, terms and conditions stated therein, the undersigned Bidder agrees to provide the following:

Description:	<u>Estimated</u> quantity needed (each)	<u>Estimated</u> total pickups per week for all 24 containers; sealed compactor (A)	Price per pickup (B)	Total estimated price per week (A) x (B)
Bulk Container/Sealed Compactor Collection Services				
Container -Eight (8) cubic yard - loose	24	62		
Sealed compactor (Capacity 20 cubic yards. Dimensions: 18'6" length X 7' X 5" high. Empty weight 7100 lbs. N.B. This compactor may not be serviced in 2005; however, the City requires a bid at this time for the service.	1	1		
			Total	

NOTE: The resultant contract will be a requirements type contract with no guaranteed minimum quantity. The estimated quantities will be used for evaluation purposes only.

The Successful Bidder must have a license issued by the City of Roanoke to operate a bulk container collection service.

Bids containing any conditions, omissions, unexplained erasures, alterations or items not called for in the bid, or irregularities of any kind, may be rejected by the City as being nonresponsive. No changes are to be made to the Bid Form. Any changes to a Bid Amount must be initialed by the person signing the Bid Form.

The attention of each Bidder is directed to VA Code sections 54.1-1100, et seq. which requires certain licenses for contractors, tradesmen, and others. Each Bidder is required to determine which license, if any, it is required to have under such sections. Complete the following:

Bidder ____ does have ____ does not have a Virginia Contractor's License. (Check appropriate block)

If Bidder has a Virginia Contractor's License, circle the class Bidder has and list the number.

Licensed "Class A", "Class B", or "Class C" Virginia Contractor Number _____

If Bidder has another type of Virginia License, please list the type and number:

Type of license _____ and number: _____.

Bidder is a ___ resident or ___ nonresident of Virginia. (Check appropriate blank. See VA Code sections 54.1-1100, et seq.

The undersigned hereby agrees, if the bid is accepted by the City, to provide the items and/or services in accordance with this Invitation to Bid and to execute a contract for such items and/or services.

Legal Name of Bidder

Date

Authorized Signature

Print or Type Name and Title

(Remainder of page intentionally left blank)

ATTACHMENT B
CITY DUMPSTER LOCATIONS FOR
BULK CONTAINER SERVICES
ITB# 04-09-06

City of Roanoke, Virginia
Bulk Container Requirements

NAME/LOCATIONS AND BILLING ADDRESS	No. of Containers	No. of Pickups per Week
Breckinridge School/ Fleming & Williamson Parks & Recreation 215 Reserve Ave., Rke. VA 24016	1	On Call
City Courthouse/315 Church Ave. Facilities Maintenance Attn: Diana Camper 1802 Courtland Rd., NE	1	M - T - W - T - F
City Jail/324 Campbell Ave. 324 Campbell Ave Roanoke VA 24011	3	(1) M, (2) M - T - W - T - F
City Market/Campbell., SE Economic Development 111 Franklin Plaza	2	M - W - F
Juvenile Home/4345 Coyner Springs 4345 Coyner Springs	1	M - W - F
City Municipal Building/2 nd Street Facilities Maintenance Attn: Diana Camper 1802 Courtland Rd., NE	2	M - T - W - T - F
City Police Building/309 3 rd Street 309 3 rd Street Roanoke VA 24011	1	M - T - W - T - F
Crisis Intervention/4350 Coyner Springs Rd 4350 Coyner Springs Rd Roanoke VA	1	Wed.
Fire Station #2 255 Noble Ave., NW Roanoke VA (City-Owned Dumpster)	1	Tue.
Mill Mt. Zoo/Mill Mountain Park P O Box 13484 Roanoke VA 24034	1	Tue.
National Guard Armory/Reserve Ave., SW 32 Reserve Ave., SW Roanoke VA 24016	1	Tue. - Fri.
Public Works Svs. Fac. (2)/1802 Courtland Rd	2	Tue.

Facilities Maintenance Attn: Martha Craft 1802 Courtland Rd Roanoke VA (City-Owned Dumpsters)		
Roanoke Valley SPCA/1313 Eastern Ave 1313 Eastern Ave., NE Roanoke VA	1	M - T - W - T - F
State Health Department/515 8 th Street 515 ;8 th Street, SW Roanoke VA	1	M – W – T – F
Strauss Park/Westside Blvd Parks & Recreation 210 Reserve Ave., Roanoke VA 24016	1	On Call
Victory Stadium/Reserve Ave Civic Center 710 Williamson Rd., NE	1	Tue.
Washington Park Pool/Burrell Street, NW Parks & Recreation 210 Reserve Ave Roanoke VA 24016	1	On-Call
Westside Ball Field/Hershberger Rd Parks & Recreation 210 Reserve Ave Roanoke VA 24016	1	Tue.
Off of Kirk Ave. SW (behind Sam's on the Market)	1	Tue., Fri.
TOTAL	24	

(Remainder of page intentionally left blank)

ATTACHMENT C
SAMPLE CONTRACT
Bulk Container Services
ITB# 04-09-06

THIS AGREEMENT ("Agreement") is made and entered into the _____ day of _____, _____, by and between the **CITY OF ROANOKE** ("City"), and _____ ("The Contractor").

For and in consideration of the mutual promises set forth in this Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

- A. The term of this Contract will be for one (1) year, from _____, through _____, at which time it will terminate, unless sooner terminated pursuant to the terms of the Contract or by law. At the City's option, the Contract may be extended for up to four (4) additional one (1) year periods or any combination thereof. The City may exercise its option by giving written notice of such to the Contractor at least sixty (60) days before the expiration of the initial one (1) year term or any subsequent extension term.
- B. All terms and conditions shall remain in force for the term of the contract and for any renewal period unless modified by mutual agreement of both parties. Prices shall not be increased during the first year of the contract. Prices for any renewal periods will be subject to the mutual agreement of both parties, but in no event shall such prices exceed five percent (5%) of the prices for the prior year of the contract.
- C. General and/or technical questions regarding the Scope of Services and/or project requirements under this Invitation to Bid may be directed to Toni Thomas, Procurement Technician, at (540) 853-2871, or faxed to (540) 853-1513.

SECTION 2. TERMINATION.

The City may terminate this Agreement, for convenience or for cause, on thirty (30) days written notice to the Contractor. Upon receipt of notice to terminate, the Contractor shall immediately discontinue all services (unless the notice directs otherwise). The Contractor shall be entitled to be paid for work satisfactorily completed in accordance with the payment terms of this Agreement.

SECTION 3. SCOPE OF WORK ("Work").

The following are the services and/or items the Contractor will be required to provide the City and/or to meet:

- A. The Contractor shall dump approximately 24, more or less, frontloading bulk containers and possibly one sealed self-contained compactor weekly.
- B. Any dumping or rental of containers in addition to that which is described in Attachment B of this Agreement, which is attached hereto and made a part hereof, must be provided when requested and will be paid for by the department requesting the service.
- C. The Contractor shall provide containers at the locations where containers are not currently owned by the City. The City currently owns two dumpsters at the Public Works location and one at Fire Station #2, Noble Ave. location.
- D. The City reserves the right to add or delete bulk containers to be serviced at any time.
- E. All collections shall be delivered to and emptied at the Solid Waste Transfer Station, Department of Public Works, 1802 Courtland Avenue, NE, Roanoke, VA 24012 operated by the Roanoke Valley Resource Authority.
- F. Contractor shall not assign or subcontract its duties under this Agreement.

SECTION 4 COMPENSATION.

The Contractor and the City agree as follows:

- A. The compensation for Work under this Agreement shall be on a monthly basis for services. The Contractor agrees that the fee is full and complete compensation for the Work, and all costs and expenses incurred by the Contractor, without condition or limitation.
- B. The rates for the completion of the Work are provided by Contractor in Attachment A which is attached hereto and made a part hereof. These rates shall remain in effect for the duration of the Agreement and shall not be increased without the mutual written agreement of both parties.
- C. The compensation for the Work will be paid, subject to approval by the Solid Waste Division Manager of the Contractor's services in accordance with the terms of this Agreement.
- D. Work shall not begin without express written authorization from the Solid Waste Division Manager.
- E. All dumping and rental services shall be handled by the Contractor providing the service during the period of the Agreement

SECTION 5. PAYMENT SCHEDULE FOR SERVICES.

- A. The Contractor shall send an invoice to all department locations listed in Attachment B, which is attached hereto and made a part hereof, no more than one time every thirty (30) days for services rendered. If such invoice is in sufficient detail acceptable to the City, the City shall forward payment to the Contractor within thirty (30) days of receipt of such invoice.

SECTION 6. INSURANCE.

- A. Requirement of Insurance. The Contractor shall, at its sole expense, obtain and maintain during the life of this Agreement the insurance policies required by this section. Any required insurance policies shall be effective prior to the beginning of any work or other performance by the Contractor under this Agreement. The following policies and coverages are required:
- B. Commercial General Liability. Commercial general liability insurance shall insure against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out of the contractor's performance under this Agreement. The minimum limits of liability for this coverage shall be \$1,000,000 combined single limit for any one occurrence.
- C. Workers' Compensation. Workers' compensation insurance covering Contractor's statutory obligation under the laws of the Commonwealth of Virginia and employer's liability insurance shall be maintained for all its employees engaged in work under this Agreement. Minimum limits of liability for employer's liability shall be one hundred thousand dollars and no cents (\$100,000.00) bodily injury by accident each occurrence; five hundred thousand dollars and no cents (\$500,000.00) bodily injury by disease (policy limit); and one hundred thousand dollars and no cents (\$100,000.00) bodily injury by disease (each employee). With respect to workers' compensation coverage, the contractor's insurance company shall waive rights of subrogation against the City, its officers, employees, agents, volunteers and representatives.
- D. Automobile Liability. The minimum limit of liability for automobile liability insurance shall be \$1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Agreement.
- E. Umbrella Coverage. The insurance coverage's and amounts set forth in subsections (A), (B), (C), and (D) of this section may be met by an umbrella liability policy following the form of the underlying primary coverage. Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy numbers indicated for the insurance providing the coverage's required by subsections (A), (B), (C), and (D), and it is further agreed that such statement shall be made a part of the certificate of insurance furnished by the Contractor to this City.
- F. Evidence of Insurance. All insurance shall meet the following requirements:
 - 1. Prior to execution of this Agreement, the contractor shall furnish the City a certificate or certificates of insurance showing the type, amount, effective dates and date of expiration of the policies. Certificates of insurance shall include any insurance deductibles. Such certificates shall be attached to this Agreement at the time of execution of this Agreement and shall be furnished in a timely fashion to demonstrate continuous and uninterrupted coverage of all of the required forms of insurance for the entire term of this Agreement.
 - 2. The required certificate or certificates of insurance shall include substantially the following statement: "The insurance covered by this certificate shall not be canceled or materially altered, except after thirty (30) days written notice has been received by the Risk Management Officer for the City of Roanoke."

3. The required certificate or certificates of insurance shall name the City of Roanoke, its officers, employees, agents, volunteers and representatives as additional insured's.
 4. Where waiver of subrogation is required with respect to any policy of insurance required under this section, such waiver shall be specified on the certificate of insurance.
 5. Insurance coverage shall be in a form and with an insurance company approved by the City which approval shall not be unreasonably withheld. Any insurance company providing coverage under this Agreement shall be authorized to do business in the Commonwealth of Virginia.
- G. Ranges and Limits. At the end of one (1) year, and for each term of this Agreement thereafter, the City shall have the right to require increases in the amounts of insurance specified above. Any adjustments shall bear a reasonable relation to any change in the cost of living or cost of repair or replacement, as measured by changes in the Consumer Price Index of the United States Bureau of Labor Statistics applicable to the Commonwealth of Virginia or comparable measure if the Consumer Price Index is no longer being issued.

SECTION 7. INDEMNIFICATION.

The Contractor agrees to be responsible for and pay, indemnify, and hold harmless the City, their officers, agents, employees, and volunteers against any and all claims, damages, injuries, loss, costs, and expenses, including but not limited to reasonable attorneys' fees of any type or nature resulting from any claim or legal action of any nature whatsoever, whether or not reduced to a judgment or settlement, or for any liability of any nature whatsoever, that may arise against the City, their officers, agents, employees, or volunteers in connection with any of the rights and privileges granted by City to the Contractor in this Agreement, including, without limitation, any patent, trademark, franchise, copyright, libel or defamation claim or suit and any claim or suit based upon the Contractor's agents, servants, employees or invitees acts or omissions, whether intentional, negligent or otherwise.

SECTION 8. COMPLIANCE WITH ENVIRONMENTAL PROTECTION LAWS.

- A. The Contractor agrees to perform all collection and disposal services strictly in accordance with all applicable federal, state and local environmental protection laws, regulations, rules and orders, including but not limited to those laws relating to the storage, disposal and presence of Hazardous Substances (the term "Hazardous Substances" used herein has the same meaning as given that term and to the term "hazardous wastes" in 42 U.S.C. §9601), disposal of solid waste, release or emission of pollutants or Hazardous Substances into the air or soil or into groundwater or other waters, applicable water and sewer regulations, and erosion and sedimentation control (collectively, "Environmental Law"). The contractor covenants that it has either acquired heretofore or shall acquire, prior to or at the time required by applicable law, all environmental permits and licenses required by any Environmental Law in connection with the maintenance and operation of the Bulk Container Services.
- B. The Contractor covenants that it shall indemnify, defend and hold the City, its successors, assigns, directors, officers, employees, volunteers, agents and lenders

harmless from all response costs, damages, expenses, claims, fines and penalties incurred by the Contractor, its successors, assigns, directors, officers, employees, volunteers, agents and lenders as the result of any violation by Contractor or any predecessor in interest to or any person acting with permission of Contractor of any Environmental Law or as the result of any necessary repair, cleanup, closure or detoxification of the property upon which Contractor is located or upon land in the vicinity of Contractor if due to conditions caused by the Contractor, predecessor in interest to or any person acting with permission of the City, or as a result of a misrepresentation made by the City based upon information supplied by the contractor to the City. These provisions in this section shall survive the termination of this Agreement.

- C. The Contractor shall immediately notify and advise the City of (i) any and all enforcement, cleanup, removal, investigation or other governmental or regulatory actions instituted or threatened against the Contractor with respect to any Environmental Law applicable to the Contractor and (ii) any and all claims made or threatened by any third person against the City, or Contractor relating to any Environmental Law applicable to the City or Contractor or to injury to any person or property because of a Hazardous Substance on or from the Contractor.

SECTION 9. REGULATIONS.

The Contractor shall fully comply with all local, state, and federal ordinances, laws, and regulations.

SECTION 10. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED.

The following applies to the Successful Bidder:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The contractor will include the provisions of the foregoing subsections a, b and c in every subcontract or purchase order of over ten thousand dollars (\$10,000.00), so that the provisions will be binding upon each subcontractor or vendor.

SECTION 11. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR.

All public bodies shall include in every contract over ten thousand dollars (\$10,000.00) the following provisions:

The following applies to the Successful Bidder:

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over ten thousands dollars (\$10,000.00), so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, a drug free workplace means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

SECTION 12. FAITH-BASED ORGANIZATIONS.

Pursuant to §2.2-4343.1 of the Code of Virginia (1950), as amended, the City of Roanoke does not discriminate against faith-based organizations.

SECTION 13. NEGOTIATION.

This Agreement has been fully negotiated by and between the parties and shall be construed as if both parties had an equal responsibility in the drafting hereof.

SECTION 14. ENTIRE AGREEMENT.

This Agreement represents the entire integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement shall not be amended or modified except by written instrument signed by the authorized representatives of both the City and the Contractor.

SECTION 15. SUCCESSORS AND ASSIGNS.

Except as otherwise specifically provided herein, the terms and provisions of this Agreement shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties.

SECTION 16. NO WAIVER OF TERMS OF AGREEMENT.

No failure of any party to insist upon strict observance of any provision of this Agreement, and no custom or practice of the parties at variance with the terms hereof, shall be deemed a waiver of any provision of this Agreement in any instance.

SECTION 17. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

SECTION 18. CONSIDERATION SUBJECT TO FUNDING.

All funds for payments by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City Council of the City of Roanoke. In the event of non appropriation of funds by the City Council of the City of Roanoke for the goods or services provided under this Agreement or substitutes for such goods or services which are as advanced or more advanced in their technology, the City will terminate this Agreement, without termination charge or other liability of the City, on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Agreement is spent, whichever event occurs first. If funds are not appropriated at any time for the continuance of this Agreement, cancellation will be accepted by Contractor or on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City Council of the City of Roanoke shall not be obligated under this Contract beyond the date of termination.

SECTION 19. NO THIRD PARTY BENEFICIARY.

The provisions of this Agreement are for the exclusive benefit of the parties hereto and not for the benefit of any third person, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any third person unless otherwise expressly provided for herein.

SECTION 20. FORUM SELECTION AND CHOICE OF LAW.

By virtue of entering into this Agreement, Contractor submits itself to a court of competent jurisdiction in the City of Roanoke, Virginia, and further agrees that this Contract is controlled by the laws of the Commonwealth of Virginia and that all claims, disputes, and other matters shall only be decided by such court according to the laws of the Commonwealth of Virginia.

SECTION 21. FORCE MAJEURE/IMPOSSIBILITY.

- A. Notwithstanding the foregoing, if, by reason of Force Majeure, the City is unable to perform or observe any agreement, term or condition of this Agreement which would give rise to a default by the City of any obligation under this Agreement, the City shall not be deemed in default during the continuance of such inability or due to such inability.
- B. The term "Force Majeure" shall mean: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the Commonwealth or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; environmental problems; fires; hurricanes; tornados; storms; droughts; floods; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; shortages of labor, materials, supplies or transportation;

any property on which work is to be done being too wet to allow work to be done on it; or any cause or event not reasonably within the control of the City.

SECTION 22. CAPTIONS AND HEADINGS.

The section captions and headings are for convenience and reference purposes and shall not affect in any way the meaning or interpretation of this Agreement.

SECTION 23. NOTICE.

Any notice, request, or demand given or required to be given under this Agreement shall, except as otherwise expressly provided herein, be in writing and shall be deemed duly given only if delivered personally or sent by certified mail, return receipt requested to the addresses stated below.

To the City: City of Roanoke
 Purchasing Division
 Noel C. Taylor Municipal Building
 215 Church Avenue, S. W., Room 353
 Roanoke, Virginia 24011

To Contractor:

Notice shall be deemed to have been given, if delivered personally, upon delivery, and if mailed, upon the third business day after the mailing thereof.

(The remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have executed the same as of the day and year first hereinabove written:

ATTEST:

CITY OF ROANOKE

Mary F. Parker, City Clerk

By _____
Darlene L. Burcham,
City Manager

ATTEST:

By _____
Secretary

By _____
President

Approved as to Form:

Appropriation and Funds Required
For This Agreement Certified

Assistant City Attorney

Director of Finance

Approved as to Execution:

Acct # _____

Assistant City Attorney